

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION**

<b>JACK L. SISK and ELIZABETH M. SISK,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	<b>CASE NO. 1:10cv6</b>
<b>vs.</b>	)	
	)	<b>JUDGE HAYNES</b>
<b>HI-TECH AMERICA</b>	)	
<b>DEVELOPMENT (HAD) III</b>	)	
<b>CORPORATION, <i>et al</i>,</b>	)	
	)	
<b>Defendants.</b>	)	

**MOTION FOR DEFAULT JUDGMENT**  
**AGAINST DEFENDANT RONALD KONITZER**

Plaintiffs, through counsel and pursuant to Fed R. Civ. P. 55, move this Honorable Court to grant a judgment by default against Defendant Ronald Konitzer. Plaintiffs would show that Defendant Ronald Konitzer was served by registered mail, return receipt requested on February 19, 2010 with a summons and a copy of the Complaint that was filed in this case. Defendant Ronald Konitzer has failed to plead or otherwise defend in this action. Therefore, good cause exists for this Motion to be granted.

Attached is Plaintiffs' Memorandum in Support of this Motion. If the Court desires a hearing on this Motion, the Plaintiffs ask that it be set and noticed for a Columbia date and time that is convenient for the Court.

Respectfully Submitted:  
UAW-GM Legal Services Plan

By: /s/Shearon W. Hales  
Shearon W. Hales, BPR# 011184  
shearonha@uawlsp.com  
3011 Harrah Drive, Suite A  
Spring Hill, Tennessee 37174  
(615) 302-1443 ext. #230  
Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I certify that a true copy of this Motion has been served upon Richard Weldon, Attorney for Defendant Kenneth Franklin, Jr. and formerly Kenneth Franklin, Sr. now the Estate of Kenneth Franklin, Sr. at rweldonlaw@verizon.net and Defendant Ronald Konitzer at 5662 Chancellor Blvd., Vancouver, BC CANADA V6T1E3 on this 1st day of March, 2011.

/s/Shearon W. Hales  
Shearon W. Hales

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
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<b>JACK L. SISK and ELIZABETH M. SISK,</b>	)	
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<b>Plaintiffs,</b>	)	
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	)	<b>JUDGE HAYNES</b>
<b>HI-TECH AMERICA</b>	)	
<b>DEVELOPMENT (HAD) III</b>	)	
<b>CORPORATION, <i>et al.</i></b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION  
FOR DEFAULT JUDGMENT AGAINST RONALD KONITZER**

Plaintiffs, through counsel and pursuant to Fed R. Civ. P. 55, have good cause to request that the Court grant a judgment by default against Defendant Ronald Konitzer. Specifically, Defendant Ronald Konitzer was served, by registered mail, return receipt requested on February 19, 2010, with a summons and a copy of the Complaint that was filed in this case in compliance with Fed R. Civ. P. 4 (f). Defendant Ronald Konitzer has failed to plead or otherwise defend in this action.

**LAW**

Fed R. Civ. P. 55(a) and (b) regarding **Default** provide that:

**(a) Entry.** When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise the clerk shall enter the party's default.

**(b) Judgment.** Judgment by default may be entered as follows:

**(1) By the Clerk.** When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the

defendant, if the defendant has been defaulted for failure to appear and is not an infant or incompetent person.

**(2) By the Court.** In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared therein. If the person against whom judgment by default is sought has appeared in the action, the party (or, if appearing by representative, the party's representative) shall be served with written notice of the application for judgment at least 3 days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by any statute of the United States.

### **FACTS**

The claims alleged in the Plaintiffs' complaint against Defendant Ronald Konitzer are racketeering, fraud, breach of contract, and breach of fiduciary duty. Plaintiffs seek a return of the \$49,500.00 in funds which they paid, plus treble damages, prejudgment interest, the costs of this action and a reasonable attorney's fee.

### **ARGUMENT**

Plaintiffs, through counsel, submit to the Court that good cause exists for a judgment by default to be granted against Defendant Ronald Konitzer because he was served by registered mail, return receipt requested on February 19, 2010 with a summons and a copy of the Complaint that was filed in this case and has failed to plead or otherwise defend in this action.

Respectfully Submitted:

UAW-GM Legal Services Plan  
By: /s/Shearon W. Hales  
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Spring Hill, Tennessee 37174  
(615) 302-1443 ext. #230  
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/s/Shearon W. Hales  
Shearon W. Hales